

SECOND REGULAR SESSION

SENATE BILL NO. 1267

92ND GENERAL ASSEMBLY

INTRODUCED BY SENATOR KINDER.

Read 1st time February 17, 2004, and ordered printed.

TERRY L. SPIELER, Secretary.

4321S.011

AN ACT

To repeal section 416.615, RSMo, and to enact in lieu thereof two new sections relating to consumer protection.

Be it enacted by the General Assembly of the State of Missouri, as follows:

Section A. Section 416.615, RSMo, is repealed and two new sections enacted in lieu thereof, to be known as sections 416.615 and 416.640, to read as follows:

416.615. 1. It is unlawful for any person engaged in commerce within this state to sell or offer to sell motor fuel below cost as defined in subdivision (2) of section 416.605, if:

(1) The intent **or effect** of the sale or offer is to injure competition; or

(2) The intent **or effect** of the sale or offer is to induce the purchase of other merchandise, to unfairly divert trade from a competitor, or otherwise to injure a competitor.

2. It is unlawful for any person engaged in commerce within this state to sell or offer to sell motor fuel at a price lower than the seller charges other persons at the same time and on the same level of distribution, if the intent **or effect** of the sale or offer is to injure competition.

3. It is unlawful for a person engaged in commerce in this state to sell or transfer motor fuel to itself or an affiliate for resale in this state on a different marketing level of distribution at a transfer price lower than the price it charges a person who purchases for resale at the same time and on the same level of distribution, if the intent **or effect** of the sale or transfer is to injure competition.

416.640. In any action brought pursuant to sections 416.600 to 416.640, the burden of proof, upon a prima facie showing of a violation, shall shift to the defendant to show justification. Unless justification is shown, the court shall award judgment for the plaintiff.

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